

Meeting Date: 11/29/08

AGENDA REPORT

City of Santa Clara, California

Agenda Item # 7A-6



Date: November 19, 2008

To: City Manager for Council Action

From: Director of Public Works / City Engineer

Subject: Resolution ordering the vacation of an Underground Electric Easement and an Overhead and Underground Electric Easement at 1500 Space Park Drive (APN 224-08-121)

EXECUTIVE SUMMARY:

The above-referenced property is encumbered with an Underground Electric Easement and an Overhead and Underground Electric Easement that are no longer required. New easements to provide rights-of-way for new utility facilities will be dedicated by a parcel map that is currently being processed, therefore the owners of the property are requesting the City vacate the subject easements. Silicon Valley Power, the only agency having an interest in the subject easements, has agreed to the vacation.

A Resolution ordering the vacation of an Underground Electric Easement and an Overhead and Underground Electric Easement has been prepared and approved for form by the City Attorney.

ADVANTAGES AND DISADVANTAGES OF ISSUE:

The vacation will remove unnecessary encumbrances from the property's title.

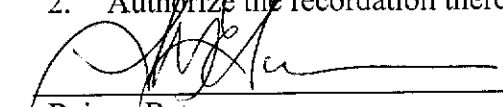
ECONOMIC/FISCAL IMPACT:

There is no additional cost to the City other than staff time and expense.

RECOMMENDATION:

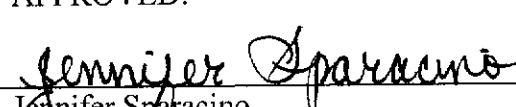
That the Council:

1. Approve and adopt the Resolution ordering the vacation of an Underground Electric Easement and an Overhead and Underground Electric Easement (APN 224-08-121; S.C. 18,332) to Digital 1500 Space Park Borrower, LLC; and
2. Authorize the recordation thereof.


Rajeev Batra

Director of Public Works / City Engineer

APPROVED:


Jennifer Sparacino
City Manager

Documents Related to this Report: Resolution

Rev. 02/26/08

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**RECORD WITHOUT FEE
PURSUANT TO GOV'T CODE SECTION 6103**

Recording Requested by:
Office of the City Attorney
City of Santa Clara, California

When Recorded, Mail to:
Office of the City Clerk
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Form per Gov't Code Section 27361.6

[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY OF SANTA CLARA,
CALIFORNIA, ORDERING THE VACATION OF AN
UNDERGROUND ELECTRIC EASEMENT AND AN
OVERHEAD AND UNDERGROUND ELECTRIC
EASEMENT LOCATED AT 1500 SPACE PARK DRIVE
[APN 224-08-121 (2007-08)]**

BE IT RESOLVED BY THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

WHEREAS, the City of Santa Clara currently possesses the easements described in Exhibits A and B, which Exhibits are incorporated herein by reference, and which said easements were recorded in Book B264 of Official Records, at Page 467, and Book D817 of Official Records, at Page 381, Santa Clara County Records, against APN 224-08-121, commonly known as 1500 Space Park Drive, Santa Clara, California;

WHEREAS, pursuant to Section 8333 of the California Streets and Highways Code, the City Council "may summarily vacate a public service easement" if:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation;

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continually since that date; and/or

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

NOW THEREFORE, BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, AS FOLLOWS:

1. The public service easements described in Exhibits A and B are unnecessary for present or prospective use and therefore fall with the provisions of Section 8333(c) of the California Streets and Highways Code,

2. That the following public service easements described in Exhibits A and B in the City are hereby vacated pursuant to California Streets and Highways Code Section 8333(c),

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3. The vacation hereby releases all easement rights referred to in Exhibits A and B to Digital 1500 Space Park Borrower, LLC, a Delaware limited liability company.

4. Constitutionality, severability. If any section, subsection, sentence, clause, phrase, or word of this resolution is for any reason held by a court of competent jurisdiction to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of the resolution. The City of Santa Clara hereby declares that it would have passed this resolution and each section, subsection, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more section(s), subsection(s), sentence(s), clause(s), phrase(s), or word(s) be declared invalid.

I HEREBY CERTIFY THE FOREGOING TO BE A TRUE COPY OF A RESOLUTION PASSED AND ADOPTED BY THE CITY OF SANTA CLARA, CALIFORNIA, AT A REGULAR MEETING THEREOF HELD ON THE ____ DAY OF _____, 2008, BY THE FOLLOWING VOTE:

AYES: COUNCILORS:

NOES: COUNCILORS:

ABSENT: COUNCILORS:

ABSTAINED: COUNCILORS:

ATTEST: _____
ROD DIRIDON, JR.
CITY CLERK
CITY OF SANTA CLARA

Attachments Incorporated by Reference:
1. Exhibits A and B

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EXHIBIT "A"

Legal Description

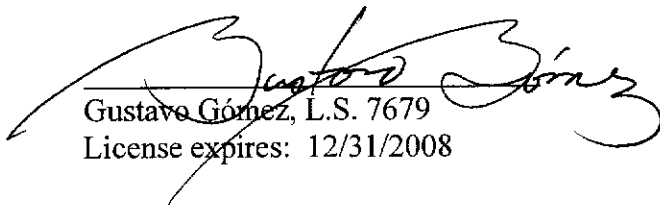
**VACATION OF AN UNDERGROUND ELECTRIC EASEMENT AND
AN OVERHEAD AND UNDERGROUND ELECTRIC EASEMENT**

**At 1500 Space Park Drive
Santa Clara, California**

All of that certain Underground Electric Easement as described in that certain document filed for record in Book B264 of Official Records, at Page 467, Santa Clara County Records, and all of that Overhead and Underground Electric Easement as described in that certain document filed for record in Book D817 of Official Records, at Page 381, said County Records, said easements being within Parcel A as shown on that parcel map filed for record in Book 357 of Maps, at Page 4, said County Records.

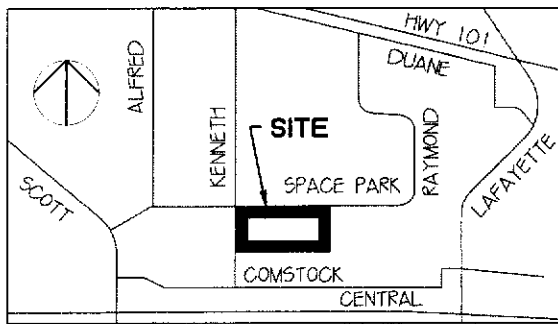
A plat showing the above described Underground Electric Easement and Overhead and Underground Electric Easement is attached hereto and made a part hereof as EXHIBIT "B" (Tracing No. 11,710-A).

This description was prepared by me or under my direction in conformance with the Land Surveyor's Act.

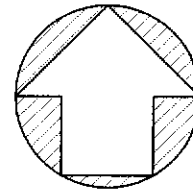

Gustavo Gómez, L.S. 7679
License expires: 12/31/2008

Date: *Nov. 4, 2008*

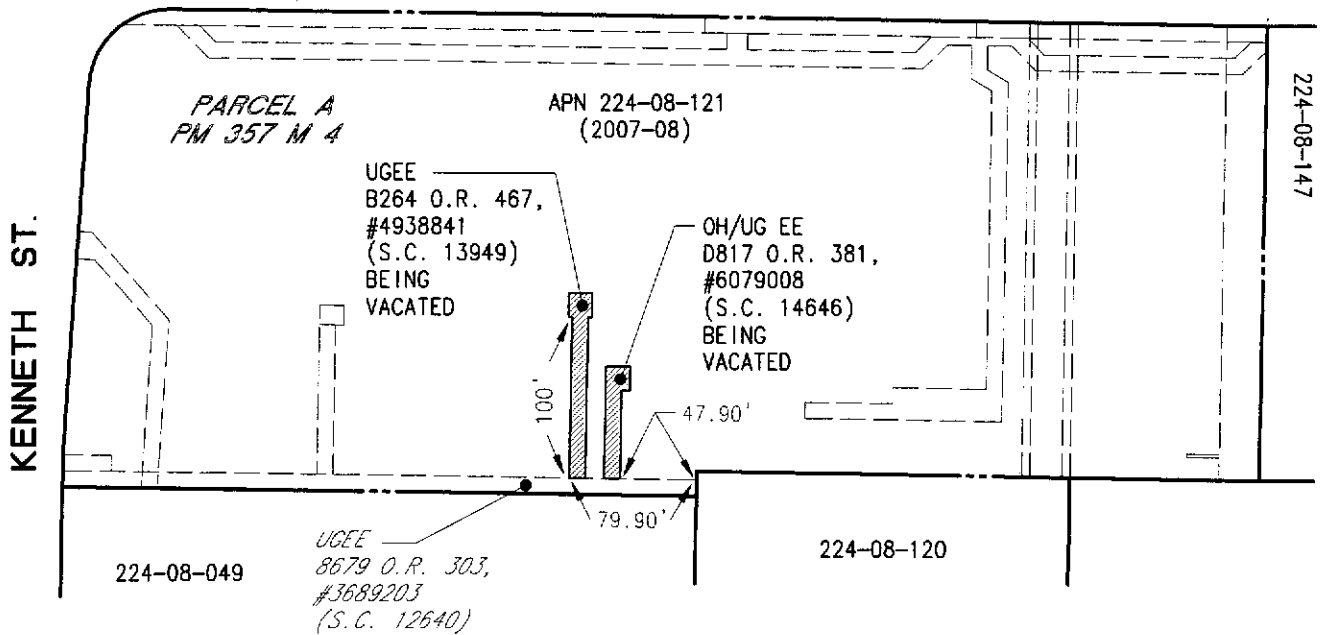




LOCATION MAP
NTS



SPACE PARK DR.



DATE: 11/4/2008

LEGEND

UGEE UNDERGROUND ELECTRIC EASEMENT
OH/UG EE OVERHEAD AND UNDERGROUND ELECTRIC EASEMENT

EXHIBIT "B"

K:\... \LPD\NELSON\SC18332 VAC EE.DWG

Revised

Drawn By ND 9-24-08

Checked By DJM 10-29-08

Approved By G. Gomez 11-4-08

RAJEEV BATRA

DIRECTOR OF PUBLIC WORKS/CITY ENGINEER

CITY OF SANTA CLARA

RESOLUTION

(VACATION OF PUBLIC EASEMENTS)

1500 SPACE PARK DRIVE

Scale
1" = 120'

Ref.
SC 18,332

Tracing No.
11,710-A

11,710-A

CITY OF SANTA CLARA
AGENDA MATERIAL ROUTE SHEET

Council Date: 11-25-2008

SUBJECT: S.C. 18,332- Resolution
1500 Space Park Drive

CERTIFICATION

The proposed Resolution
Regarding vacation of an Underground Electric Easement and an Overhead and Underground Electric Easement
has been reviewed and is hereby certified.

PUBLICATION REQUIRED:

The attached Notice/Resolution/Ordinance is to be published _____ time(s) at least _____ days before the
scheduled meeting/public hearing/bid opening/etc., which is scheduled for _____, 200__.

AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:

Federal Codes:

Title _____ U.S.C. § _____
(Titles run 1 through 50)

California Codes:

Code _____ § _____
(i.e., Government, Street and Highway, Public Resources)

Federal Regulations:

Title _____ C.F.R. § _____
(Titles run 1 through 50)

California Regulations:

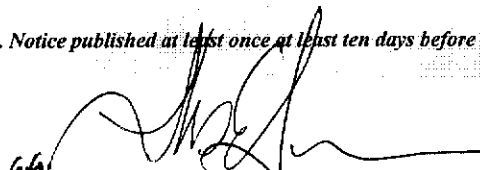
Title _____ California Code of Regulations § _____
(Titles run 1 through 28)

City

City Charter § _____ (i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)

City Code § _____

1. As to City Functions, by

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Department Head

2. As to Legality, by




City Attorney's Office / CAO Assignment No 08. 1546

3. As to Environmental
Impact Requirements, by



Director of Planning and Inspection

4. As to Substance, by



City Manager

Revision Date June 7, 2005